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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,505	09/13/2004	Takahisa Kaneko	121107	6446
25944 7590 11/23/2007 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			EXAMINER LEYSON, JOSEPH S	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 11/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/507,505	Applicant(s) KANEKO ET AL.	
	Examiner Joseph Leyson	Art Unit 1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: 12 and 14-16.
 Claim(s) rejected: 9-12, 14-16 and 18.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendments change the scope of the claims requiring further consideration and/or search.

1. Applicant's request for reconsideration filed November 16, 2007 has been fully considered but they is not persuasive.

Applicants argue that Bagley (US 3,790,654) is not capable of maintaining rigidity during extrusion of material containing silicon carbide (SiC). However, such an argument is an assertion without factual basis. Exhibit A filed on November 16, 2007 merely states information about SiC, but is NOT a factual basis that Bagley is NOT capable of extruding SiC. Bagley even discloses extruding ceramic materials (i.e., col. 1, lines 30-36). Note that SiC is a ceramic material.

Applicants argue that the configuration recited in claims 9 and 11 are specifically designed for SiC, and thus the connection area ratio recited therein is specifically designed for SiC. Bagley does not concern SiC. Thus, Bagley does not render obvious, during the asserted routine experimentation, the connection area ratio recited in claims 9 and 11. Again, as mentioned in the previous office action, the claims recitations relative to "SiC" relate to the intended use of the claimed apparatus and do NOT hold any patentable weight. In other words, the instant claims are NOT limited to using SiC in the claimed apparatus. And therefore, these arguments are NOT commensurate in scope with the claim limitations. Furthermore, the routine experimentation mentioned in the previous office action does NOT rely on SiC. In other words, the connection area ratio of the instant claims could work for the materials recited by Bagley.

Applicants argue that because the instant die's cell blocks are much more susceptible to breakage when the connection area ratio falls outside the range of 35 to

65%, it is critical to have a die containing a back hole and cell block connection area ratio within the range of 35 to 65% to prevent breakage of the cell blocks or appearance of cracks when using hard input material containing silicon carbide (see Table 2 of specification). Thus, the connection area ratio recited in claims 9 and 11 demonstrate unexpected advantages compared to Bagley regarding SiC. The examiner respectfully disagrees. The asserted critical range is just a dimensional range in which the claimed apparatus works as intended (i.e., the apparatus doesn't break during extrusion). So, the issue is whether the asserted critical range would be obvious in view of the teachings of Bagley. Clearly, an artisan of ordinary skill, by routine experimentation, could find an operable range of dimensions for the apparatus of Bagley which enable it to extrude as intended (i.e., dimensions which enable the apparatus to extrude without breaking). Applicant has not provided any evidence that the asserted critical range would not coincide with such an operable range or provided any evidence that the asserted critical range has criticality. Merely finding dimensions which enable the claimed apparatus to work during extrusion of SiC appears to be the routine experimentation mentioned above.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JL

/Robert B. Davis/
Primary Examiner
Art Unit 1791
November 20, 2007